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**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

**In re. DELETE, DELETE, DELETE
GN Docket No: 25-133**

Comments of Kompato AI

Marlene H. Dortch
Secretary
Federal Communications Commission
45 L Street
NE Washington, D.C. 20554

Dear Secretary Dortch,

This firm, Hinshaw & Culbertson, LLP, writes on behalf of our client, Kompato AI. Thank you for the opportunity to submit comments to the Federal Communications Commission's (FCC or Commission) docket, *In re: Delete, Delete, Delete*. As discussed further below, Kompato AI encourages the FCC to (i) amend its rules to exempt debt collectors from the Telephone Consumer Protection Act's (TCPA) prior express consent requirement for making calls using an automatic telephone dialing system or an artificial or prerecorded voice, and (ii) rescind its Declaratory Ruling and Proposed Rule regarding AI-generated calls and texts.

I. Introduction & Background

Kompato AI (Kompato) is in the receivables management business. It is an innovative technology company whose goal is to transform the debt collection experience with a consumer-centric approach. Kompato combines cutting-edge technology with compliance-first practices to make managing debt simpler. Kompato's AI-powered platform uses generative artificial intelligence ("AI") as an alternative to traditional human interaction to assist in consumer debt management. As a result, it offers flexibility for consumers to handle their finances on their own time. The proprietary technology Kompato has developed is trained to comply with state and federal laws.

The appetite for leveraging AI in collections is rapidly growing. Creditors and debt collectors alike seek to incorporate the advantages of this technology into their business operations and customer relations. AI-based collections calls can offer benefits such as efficiency, accuracy,

compliance, and consumer satisfaction, by reducing human error, adapting to different scenarios, and providing personalized and respectful communication.

However, these benefits are hindered by certain rules and declarations of the FCC relating to the TCPA, which impose unnecessary and burdensome restrictions on the use of AI for collections calls. We urge the FCC to reconsider and revise these rules and declarations, as part of its “Delete Delete Delete” initiative, to reflect the realities and capabilities of AI technology and to harmonize them with the comprehensive nature of the Fair Debt Collection Practices Act (FDCPA) consumer protections.

The FDCPA is the primary federal law regulating the conduct of debt collectors, and it provides consumers with rights and remedies against abusive, deceptive, or unfair collection practices. The FDCPA covers all forms of communication, including calls, letters, emails, texts, and faxes. It requires debt collectors to identify themselves, disclose the amount and nature of the debt, provide verification and validation of the debt, and respect the consumer's preferences and requests regarding the time, place, and manner of communication. The FDCPA also prohibits debt collectors from harassing, threatening, misleading, or coercing consumers, or from contacting third parties without a valid reason or proper consent.

The TCPA, on the other hand, is a more limited and, frankly, outdated law that focuses on the use of certain technologies for making calls, such as autodialers, prerecorded or artificial voice messages, and fax machines. The TCPA was enacted in 1991, before the widespread adoption of cell phones, smartphones, internet, and AI, and was intended to address the problems of telemarketing, privacy, and consumer annoyance. The TCPA requires callers to obtain prior express consent from consumers before making calls using these technologies, and to honor the consumer's right to opt out of such calls. The TCPA also establishes a national do-not-call registry, which allows consumers to register their phone numbers and prevent unwanted telemarketing calls.

The FCC has issued various rules and declarations over the years to interpret and implement the TCPA, some of which have created confusion and inconsistency, especially as it relates to the interplay between the FDCPA and TCPA.

II. TCPA’s Prior Express Consent Requirement for Making Telephone Calls Using an Automatic Telephone Dialing System or an Artificial or Prerecorded Voice Should Not Apply to Debt Collection Calls

The TCPA rules for consideration are as follows:

No person or entity may initiate any telephone call (other than a call made for emergency purposes or is made with the prior express consent of the called party) using an automatic telephone dialing system or an artificial or prerecorded voice to any telephone number assigned to a paging service, cellular telephone service, specialized mobile radio service, or other radio common carrier service, or any service for which the called party is charged for the call. 47 CFR 64.1200(a)(1)(iii).

No person or entity may initiate any telephone call to any residential line using an artificial or prerecorded voice to deliver a message . . . without the prior express consent of the called party. 47 CFR 64.1200(a)(3).

We respectfully urge the Commission to amend its rules to exempt debt collectors, as defined under the FDCPA, 15 U.S.C. § 1692a(6), from the requirement to obtain prior express consent before contacting consumers for debt collection purposes.

Debt collection is fundamentally distinct from telemarketing or solicitation because it involves recovering legally-owed funds rather than promoting products or services, the type of activity the TCPA was intended to regulate. Further, collection calls do not present the same risks of annoyance, privacy invasion, or fraud commonly associated with robocalls and text messages, especially given the protections already afforded under the FDCPA. The TCPA was primarily designed to curb intrusive marketing practices, not to hinder legitimate efforts to collect financial obligations. Granting an exemption for debt collectors would align with the TCPA's original intent while enabling efficient communication between creditors and consumers. This, in turn, would reduce collection costs and minimize the need for legal action against consumers.

While the TCPA protects consumer privacy, consumers are already safeguarded by the FDCPA, which prohibits harassment and ensures transparency in debt collection practices. Exempting debt collectors from the prior consent requirement would not undermine these protections but would eliminate unnecessary regulatory overlap. Congress enacted the FDCPA to ensure that consumers are treated fairly and respectfully during the debt collection process. For instance, Section 1692c of the FDCPA prohibits contacting third parties about a debt without the consumer's consent, while Section 1692d forbids conduct intended to harass, oppress, or abuse individuals, such as excessive or repetitive phone calls (15 U.S.C. §§ 1692c, 1692d).

Additionally, Regulation F, which implements the FDCPA, establishes clear guidelines for communications and disclosures in debt collection. It prohibits contacting consumers at inconvenient times or places (12 C.F.R. § 1006.6(b)), sets requirements for electronic communications and opt-out notices (12 C.F.R. § 1006.6(e)), limits excessive calls (12 C.F.R. § 1006.14(b)(2)), mandates honoring requests to cease communication (12 C.F.R. § 1006.14(h)), and requires disclosure in initial communications that the purpose is to collect a debt (12 C.F.R. § 1006.18(e)). These robust protections ensure that consumers' rights are upheld without imposing redundant consent requirements under the TCPA. Notably, Regulation F only became effective approximately three years ago on November 30, 2021. As a result, collectors have spent a significant amount of time and money implementing those fulsome consumer protections.

By exempting debt collectors from the prior express consent mandate, the FCC can support efficient debt recovery processes while maintaining strong consumer protections under existing FDCPA regulations. Efficiency in debt recovery strikes at the core of this Administration's priorities, which is to foster a more open and competitive consumer marketplace, where lenders can responsibly offer more credit opportunities to borrowers. Despite the negative perception often associated with collections, the practice of responsible debt recovery is integral to maintaining the stability and health of the financial markets.

III. The FCC's Proposed Rule and Declaratory Ruling Regarding AI Should be Rescinded

We further urge the Commission to rescind its Proposed Rule regarding Implications of Artificial Intelligence Technologies on Protecting Consumers from Unwanted Robocalls and Robotexts (CG Docket No. 23-362) (Proposed Rule) and its Declaratory Ruling (FCC-24-17) regarding the use of AI generated voice (Declaratory Ruling). The Proposed Rule and Declaratory Ruling are based on inaccurate and outdated assumptions about AI and impose unnecessary and burdensome restrictions on AI-based collections calls and texts. They are inconsistent with the Commission's "Delete Delete Delete" initiative and its stated principles of promoting innovation, competition, and consumer choice.

The Declaratory Ruling, adopted on February 2, 2024 and released on February 8, 2024, states that the TCPA's restrictions on the use of "artificial or prerecorded voice" encompass current AI technologies that generate human voices, and clarifies that the requirement for prior express consent applies to those calls. FCC-24-17, ¶ 2.

The Proposed Rule, published in the Federal Register on September 10, 2024, goes beyond the Declaratory Ruling and would define AI-generated calls, adopt new rules requiring disclosure to consumers when they receive an AI-generated call, and adopt protections for consumers to ensure that callers adequately apprise them of their use of AI-generated calls when consumers affirmatively consent to receive such calls. 89 Fed. Register 73321 (Sept. 10, 2024).

We urge the Commission to rescind the Proposed Rule and Declaratory Ruling in light of the benefits of current AI-technologies leveraged to place text messages and collection calls.

The Declaratory Ruling assumes that AI-generated calls are inherently deceptive, harmful, or unwanted by consumers. The Proposed Rule addresses these assumptions by requiring additional disclosures, consents, and protections beyond those already established for artificial or prerecorded voice calls or autodialed calls. However, these assumptions are not supported by evidence or experience, and they ignore the significant advances and advantages of AI technologies in the context of collections calls. AI-based collections calls are not the same as traditional telemarketing robocalls. Rather, companies like Kompato who generate AI-based collections calls use sophisticated natural language processing and machine learning techniques to generate personalized, interactive, and adaptive voice that can communicate with consumers in a natural, respectful, and empathetic manner. As discussed above, AI-based collections calls can provide consumers with more information, options, and flexibility to resolve their debts, and can reduce the need for repeated or unwanted calls. The Declaratory Ruling and Proposed Rule ignore the benefits of these technological advances, (which actually resolve the frustrating consumer experience in receiving an artificial or prerecorded call), and instead broadly regulate them alongside the problem they are intended to address.

Rescission of the Declaratory Ruling and Proposed Rule is consistent with the "Delete Delete Delete" initiative's goal to eliminate outdated and unnecessary regulations that hinder the deployment of new technologies and services, and to foster a light-touch regulatory environment that encourages investment and innovation. The use of AI technology enhances efficiency and compliance in the collections process, and results in an improved consumer experience with a

greater likelihood of debt resolution. The Declaratory Ruling and Proposed Rule limit the choices and opportunities for consumers to communicate and negotiate with their creditors, and deprive them of the benefits of AI-based collections calls.

Specific to text messages, the Proposed Rule's broad definition of "AI-generated call" would deny consumers a less intrusive way to receive communications in the debt collection process by adding additional restrictions and disclosures for text messages generated through AI technology. Additional requirements beyond the existing regulation of text messages under the TCPA and FDCPA are not needed. As discussed above, Regulation F and the FDCPA already provide a robust regulatory framework for protecting consumers, and the additional layer of requirements do not make sense in the context of debt collection.

The Proposed Rule defines "AI-generated call" as "a call that uses any technology or tool to artificially generate a voice or text using computational technology or other machine learning, including predictive algorithms, and large language models, to process natural language and produce voice or text content to communicate with a called party over an outbound telephone call." 89 Fed. Register at 73322. Including text messages within this definition ignores the benefits to many consumers of receiving collections communications in a manner that does not intrude on consumers in the same manner as a telephone call. For example, a consumer receiving a text message can choose whether to check or ignore the message or silence notifications in order to eliminate noise or disturbance for the consumer or others around them.

While the FCC has engaged in rulemaking specifically addressing text messages (*see, e.g., In re: Targeting and Eliminating Unlawful Text Messages*, Final Rule, 89 Fed. Register 5098), including texts within the definition of AI-generated call does not address the FCC's concern as articulated in the Declaratory Ruling, which is limited to the FCC's concerns with AI technologies that simulate a human voice or that use a prerecorded voice. Texts are different from "voice," and courts have distinguished between voice and texts under the TCPA. *See, e.g., Trim v. Reward Zone USA LLC*, 76 F.4th 1157, 1161 (9th Cir. 2023) (distinguishing between texts and voice calls and holding that Congress clearly intended "voice" "to encompass only audible sounds because the ordinary meaning of voice and the statutory context of the TCPA establish that voice refers to an audible sound.").

Additionally, consumers can opt-out of receiving messages from the sender at any time, by replying with a simple word or phrase, such as "STOP" or "UNSUBSCRIBE," or by following a link or instructions provided in the message. Text messages allow consumers to control and decide when, where, and how to read or reply to them, without being pressured, coerced, or harassed by the sender. These factors make text messages more respectful, responsive, and empowering for the consumer than traditional telephone calls, which are often imposed, unwanted, or abusive.

For these reasons, we urge the Commission to rescind the Declaratory Ruling and Proposed Order.

IV. Conclusion

In consideration of the realities and capabilities of AI technology in the collections industry, and the robust existing regulatory framework set forth in the FDCPA and Regulation F, we respectfully request that the Commission (i) amend its rules to exempt debt collectors from the prior express consent requirement for making calls using an automatic telephone dialing system or an artificial or prerecorded voice, and (ii) rescind the Declaratory Ruling and Proposed Rule regarding AI-generated calls and texts. These actions would recognize innovation, remove unnecessary regulation, and still protect consumers.

We thank the Commission for its consideration of our comments as part of its “Delete Delete Delete” initiative.

Respectfully submitted,

HINSHAW & CULBERTSON LLP

A handwritten signature in black ink, appearing to read "V. Rao", written over a horizontal line.

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